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this Memorandum Decision shall not be
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collateral estoppel, or the law of the
case.

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**IN THE
COURT OF APPEALS OF INDIANA**

LADARREL HICKS,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 20A04-0701-CR-76
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE ELKHART SUPERIOR COURT
The Honorable David Bonfiglio, Judge
Cause No. 20D06-0602-FD-47

July 31, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

LaDarrel Hicks, *pro se*, appeals the denial of his motion for jail time credit. We affirm.

FACTS AND PROCEDURAL HISTORY

In February 2006, Hicks was charged with resisting law enforcement as a Class D felony,¹ false informing as a Class B misdemeanor,² and driving while suspended with a prior unrelated violation as a Class A misdemeanor.³ On November 1, 2006, he agreed to plead guilty to all charges. In exchange, Hicks would be sentenced to the Department of Correction for an aggregate sentence of three years with one year suspended to probation. Because Hicks was incarcerated on other charges, the plea agreement required him to serve this sentence consecutive to his current sentence. The trial court informed Hicks he “wouldn’t have any credit time in the time you’ve been awaiting this hearing because you’re basically—that’s going toward your current sentence that you[’re] serving.” (Tr. at 5.) The trial court accepted the plea agreement and sentenced Hicks the same day.

On November 22, 2006, Hicks filed a *pro se* motion for jail time credit. On December 26, 2006, the trial court denied the motion, noting Hicks “is serving sentence on a different case.” (App. at 39.) He filed his notice of appeal regarding this order on January 10, 2007.⁴

¹ Ind. Code § 35-44-3-3(a).

² Ind. Code § 35-44-2-2(d)(1).

³ Ind. Code § 9-24-19-2.

⁴ Hicks filed a petition for post-conviction relief on November 14, 2006. The court denied his petition on January 26, 2007—fifteen days after Hicks filed his notice of appeal. In his brief, Hicks also asserts the State violated his rights to a speedy trial under Ind. Crim. Rule 4 and to assistance of counsel under the Sixth Amendment. Both of those issues were raised in his post-conviction relief petition. As the instant

DISCUSSION AND DECISION

The plea agreement required Hicks' sentence be served consecutive to the sentence he was already serving. A plea agreement is contractual in nature, binding the defendant, the State and the trial court. *Pannarale v. State*, 638 N.E.2d 1247, 1248 (Ind. 1994); *see also* Ind. Code § 35-35-3-3(e) ("If the trial court accepts a plea agreement, it shall be bound by its terms."). Where the defendant receives consecutive terms, "he is only allowed credit time against the total or aggregate of the terms." *Stephens v. State*, 735 N.E.2d 278, 284 (Ind. Ct. App. 2000), *trans. denied* 741 N.E.2d 1259 (Ind. 2000).

Under the plea agreement, the trial court was required to order Hicks' sentence served consecutive to the sentence he was already serving. The credit time he earned while awaiting disposition was properly credited against this aggregate sentence. *See id.* The trial court correctly denied Hicks' request for jail time credit.

Affirmed.

SHARPNACK, J., and BAILEY, J., concur.

appeal is from the denial of his motion for jail time credit and not the denial of his petition for post-conviction relief, these post-conviction issues are not before us.